IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.1416 of 2006

Abedulla Ayub Kadiwala — Petitioner
Vs.
State of Maharashtra & ors. — Respondents

None for petitioner.
Mrs.A.S.Pai, APP for State.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

October 11, 2006.

P.C.

. None present for the petitioner. We have noticed that the prayer in this petition is to quash and set aside the detention order bearing No. PSA-1105/9/SPL-3(A) dated 6th September 2005 issued under Section 3(1) of the Cofeposa Act, 1974 and the subsequent order dated 6/3/2006 forwarding the detention order for publication in the gazette.

. Admittedly the impugned detention order has not been executed by the executing authority at any time till now on the ground that the detenu has been absconding. In the case of Additional Secretary to the Government of India & ors. v. Smt. Alka Subhash Gadia & anr. **[1992 Supp (1) SCC 496]** a three-Judge Bench has held that pre execution challenge to the order of detention cannot be

entertained in a writ petition under Article 226 of the Constitution till the proposed detenu is arrested. By following the law laid down in the said case it is evident that this petition is not maintainable and, therefore, the same is dismissed.

Rule discharged.

(NARESH H. PATIL,J.) (B.H.MARLAPALLE